

WLKK NEWSRADIO 1400

18 West Ninth Street • Erie, PA 16501

DEAR CHAIRMAN HUNDT,

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YOU DON'T SEEM TO BE IN
FAVOR OF SENATOR MCCAIN'S
PROPOSAL TO AUCTION THE ANALOG
SPECTRUM. I'M NOT EITHER.

IF YOU TAKE THE TIME TO
REVIEW THE ENCLOSED YOU MAY
FIND WHAT I HAVE TO SAY OF INTEREST.

REGARDS,

Kathleen DeCopia

WLKK RADIO 1400

18 West Ninth Street • Erie, PA 16501 • 814/456-7034 • Fax 814/456-0292

February 5, 1997

Senator John McCain
SR-241 Russell Senate Office Building
Washington, D.C. 20510-0303

Re: Telecommunications/Spectrum Allocation

Dear Senator McCain,

I see that you have taken an interest in expediting the analog spectrum allocations that remaining pending before the FCC. Thank you for your efforts to "defrost" those of us that wait anxiously for movement.

From your published comments, I gather that you would draft legislation to open up these allocations to auction. It would be the easiest method to resolve the current backlog and in some circumstances fair. However, I don't think it is a solution in the best interest of the broadcast industry.

I readily admit a personal interest in this legislation. I have had a pending allocation before the FCC since 5-11-95. My frustration with the lack of activity has been directed towards studying this issue in hopes of finding "the answer". A resolution that is fair and not subject to abuses.

Please give the following your personal attention knowing that I have invested countless hours in research and preparation. Can one determined citizen compete for attention with powerful special interest lobbyists? Your response will answer that question.

Best personal regards,

WLKK RADIO/KDC, Inc.

Kathleen De Capua

Kathleen De Capua
Owner

KDC/mos

cc: Senator Arlen Specter
Senator Rick Santorum

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When evaluating Comparative Hearing vs Auction study the impact on the vast majority of broadcaster not the small minority of major market players.

For example: the state of Pennsylvania has approximately 435 radio stations. Duncan's Radio Market Guide is published annually and is a summary of significant market activity across the country. In the 1993 edition (the most current I have) only 138 or 32% of the stations are "accounted" for.

City:	ARB [mkt size]	no of [stations]	(000) [rev/share]
Philadelphia	5	24	1,610
Pittsburgh	20	24	640
-----[major markets]			
Allentown-Bethlehem	64	13	262
Wilkes-Barre Scranton	62	29	214
-----[medium markets]			
Harrisburg	74	16	213
-----[small market]			
Erie	147	10	72
Johnston	162	12	79
Altoona	228	10	55
-----[very small mkts]			

Revenue per share, tells you for each percentage point of the listening audience you reach, the amount of revenue you should be generating by your operations. Big difference from Philadelphia to Erie... and what about the other 297 markets not even listed?

Auctioning off allocations in large markets makes sense. These markets are closed to diversity due to the high cost of entry. Plus the value of these franchises is so great that it would generate significant revenues for the government. Revenues that should be use to police the media groups that now control them. [anti-trust, EEO, etc.]

If auction is the rule for small and very small markets the revenue generated from all would probably not equal the amount gained from one major market allocation. It would not provide opportunity for the small broadcast business owner. The companies in a position to create broadcast jobs in their local communities....a good revenue trade off, don't you think?

Total elimination of a comparative system in favor of auctioning the broadcast spectrum is not in the best interest of the vast majority of broadcasters or the public they serve.

The Telecommunications Act of 1996 made many sweeping changes in the industry. And it will be years before the total impact on the nation's broadcasters will be known. Large groups are buying up multiple franchises in markets across the country. Economies of scale will make it difficult if not impossible for single entities to compete.

Except in the major markets... where there is already so much money involved that they play by a different set of rules. Deregulation of ownership limits just reshuffles the deck. [ie. I'll sell you Columbus, Ohio for Orlando, Fla]

For the rest of us? It's like the retail scenario with Walmart moving in. With one big exception! Broadcasters are restricted in how we can compete. If you eliminate the comparative process entirely you've shut down one avenue that can provide an opportunity for a more level playing field.

Is what's bad for broadcasters, bad for the country? In most cases, yes. The original comparative hearing system was designed to select the applicant that would best ... "serve the public good". And this is the criteria developed to find the best candidate to do so:

- (a) those who would not only own, but also operate;
- (b) provide diversity of control through minority status;
- (c) reflect community standards through local residence;
- (d) provide diversity of control through female status;
- (e) draw on past broadcast experience to provide a quality service;
- (f) have knowledge of communities needs by virtue of past and current civic involvement
- (e) and finally.. a preference for existing owners of AM Daytimers since this type of facility has proven to be of marginal value in today's broadcast climate

The broadcaster that fits this profile would be regulated by the standards of the community. Because local is better when it comes to radio broadcasting. When there is a disaster; or an issue or problem in the community how fast or effectively can a group manager react?

A common sense approach to comparing applications that includes an auction provision is the best possible solution. The FCC has tried to devise a system that can be applied to all with the end result of a system that works for none. Legislate or mandate a resolution that includes the following elements:

- 1: Grant, outright, those allocations to the "pioneer" applicant if they meet all other qualifications. This would significantly reduce the backlog of pending allocations in a fair and objective manner.

I don't have access to their records, but I would bet that most pending allocations frozen by the FCC, have more in common with mine situation than not. I am the "pioneer" applicant, could you guess? I found the available frequency and spent the money to have it allocated to the Erie market.

The current comparative system allowed others to file in hopes of manipulating the process for financial gain. Three of the six other applicants already have FM stations in Erie, two are speculators from out of town and one is not financially capable. None are better broadcasters!

In addition to pioneer status I also fit most all of the original comparative hearing criteria. Lack of minority status and an AM daytimer are the only points I'm missing. Since I made the decision to file under the assumption that this was the measuring stick to be used... a retroactive auction is doubly unfair.

If a window is opened by the FCC similar to the last one, a lifting of the settlement cap, it will be an opportunity for "blackmail". If I can come up with enough money I can buy off the other applicants who have done more than incur the expense of filing. If I can't the waiting continues.

There has been an opinion paper floating around for years [FCC Notice of Proposed Rulemaking 3/12/92] with recommendations on how to conduct this comparative process. And there is language in it to give preference to "pioneer" applicants.

- 2: Grant the remaining allocations pending to the applicant that best fits the spirit of "best service to the public". One that will provide for diversity of control. Diversity now means giving existing broadcasters the ability to compete so they are not swallowed by regional and national groups.

Common sense approach [cont]

My arguments for this second step are not as complete as for the first. But have wider implications for future precedents.. like for the digital band..

For new analog frequencies pending and future new allocations preference should be given as the follows:

- (a) has an existing stand alone facility either AM daytime, AM full time or FM station in the market but due to market conditions needs to combine or upgrade to remain competitive.
- (b) would enhance diversity of ownership in the market either through independent operations or to dilute current control held by few operators..

At first glance this criteria might not seem objective... but if you base "market conditions" and diversity of ownership on hard statistics, like Duncan's Radio Market guide, a reasonable guide could easily be formulated.

- 3: Rather than let the process drag on for years determine a reasonable cut off period after which the license is auctioned to the highest bidder. With the government not the speculators profiting.

In conclusion: If now is the time to reorganize the FCC consider the diversity of the country, it's broadcasters and the public it serves. Two branches, perhaps? One to regulate and study the impact of the new mega media groups. One to serve needs of the rest of us.